United Nations CERD/C/UZB/CO/8-9

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
14 March 2014

Original: English

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined eighth and ninth periodic reports of Uzbekistan*

1. The Committee considered the combined eighth and ninth periodic reports of Uzbekistan (CERD/C/UZB/8-9), submitted in a single document, at its 2277th and 2278th meetings, held on 11 and 12 February 2014 (see CERD/C/SR.2277 and 2278). At its 2288th and 2289th meetings, held on 19 February 2014 (see CERD/C/SR.2288 and 2289), it adopted the following concluding observations.

I. Introduction

2. The Committee welcomes the combined eighth and ninth periodic reports of the State party, which are in conformity with the Committee's guidelines, as well as the supplementary information and printed materials provided by the high-level delegation. The Committee also notes with appreciation the timeliness and regularity with which the State party submits its reports, allowing for a continuing and constructive dialogue.

II. Positive aspects

3. The Committee welcomes the measures taken by the State party since the examination of the previous periodic reports in 2010, to combat racial discrimination, in particular:

(a) The adoption of a national plan of action for the implementation of the recommendations of the Committee;

(b) The conduct of the social survey "Uzbekistan is a multi-ethnic State" to determine the perception of ethnic relations by the population;

(c) The conduct of surveys to gather information about the socioeconomic status of the Luli/Roma community in the State party;

(d) Several awareness-raising activities, including activities by the International Cultural Centre, on the Convention, on human rights and to promote friendly relations between ethnic groups;

* Adopted by the Committee at its eighty-fourth session (3-21 February 2014).

(e) The *makhalla* system of local neighbourhood self-governing organizations, which carry out activities to support vulnerable groups, as provided for in the 1993 law on citizens' self-governance bodies and subsequent amendments thereto.

4. The Committee notes with appreciation the temporary reception on the territory of the State party of refugees from Kyrgyzstan following the outbreak of violence there in June 2010.

III. Concerns and recommendations

Definition of racial discrimination and legislation thereon

5. The Committee regrets the conclusion reached by the State party that it would be "inappropriate" to incorporate a definition of racial discrimination in its legislation, in spite of the recommendation of the Committee to the contrary. The Committee also regrets that the State party has not taken steps for the elaboration of legislation of general application forbidding racial discrimination, in order to eliminate legislative gaps and to ensure protection against and provide remedies for acts of discrimination in all fields of public life (art. 1).

Taking into account the need for legal protection against discrimination on all the grounds set out in the Convention, the Committee reiterates its view that legislation of general application forbidding racial discrimination is an indispensable tool for effectively combating racial discrimination and recommends that such legislation:

(a) Define racial discrimination and incorporate all the elements set out in article 1 of the Convention. The Committee underlines the importance of the inclusion of grounds such as colour, national origin and descent which are currently not prohibited by the State party's Constitution. The Committee draws the attention of the State party in particular to its general recommendation No. 29 (2002) on article 1, paragraph 1 (Descent);

(b) Prohibit direct and indirect discrimination in the enjoyment and exercise of all human rights, in conformity with article 5 of the Convention;

(c) Provide for the application of special measures, when necessary, taking into account the Committee's general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention;

(d) Provide for penalties in the case of violation of the legislation as well as reparation for victims of racial discrimination, bearing in mind the Committee's general recommendation No. 26 (2000) on article 6 of the Convention;

(e) Establish remedies and redress mechanisms.

The Committee also recommends that the State party's legislation in civil proceedings involving racial discrimination provide for a shift in the burden of proof once a prima facie case of racial discrimination has been made.

The Committee encourages the State party to seek assistance from the Office of the United Nations High Commissioner for Human Rights for the implementation of the present recommendation.

Incorporation of the provisions of article 4 of the Convention

6. The Committee is concerned that the State party's laws do not fully meet the requirements of article 4 of the Convention:

(a) They do not provide for the criminalization of the cases contemplated in article 4 (a);

(b) While the Political Parties Law of 26 December 1996 and the Non-Governmental Organizations Law of 14 April 1999 cover some aspects of article 4, they do not prohibit organizations and organized and other propaganda activities that promote and incite racial discrimination. Moreover, participation in such organizations and activities is not explicitly penalized in the State party's laws.

The Committee also notes that racist motive is regarded as an aggravating circumstance only in connection with serious crimes (art. 4).

Recalling its general recommendations No. 15 (1993) on article 4 and No. 35 (2013) on combating racist hate speech, the Committee recommends that, in its legislation, the State party:

(a) Provide for the criminalization of the dissemination of ideas based on racial superiority or hatred, and all acts of violence against any race or group of persons of another colour or ethnic origin, as well as incitement thereto, in accordance with the provisions of article 4 (a) of the Convention;

(b) Prohibit organizations and organized and other propaganda activities that promote and incite racial discrimination, and establish participation therein as an offence punishable by law, in accordance with article 4 (b), of the Convention.

The Committee also recommends that racist motive be recognized as a general aggravating circumstance for all offences and crimes.

Independence of the judiciary and lawyers

7. The Committee notes with concern the lack of independence of the judiciary in the State party, due inter alia to the five-year term of judges and the requirement, under the 2008 Law on Legal Defence, for lawyers to renew their licence every three years (arts. 4 and 6).

Recalling the importance of the independence of the judiciary for the implementation of the Convention and referring to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee calls on the State party to introduce the principle of the irremovability of judges as a means for securing judicial independence, and to ensure the continuing training of lawyers without impeding their independence to choose and defend clients.

Ethnic relations

8. The Committee notes with concern that tensions with neighbouring countries, including over natural resources, may strain inter-ethnic relations in the State party (art. 2).

The Committee calls upon the State party, which has experienced inter-ethnic conflicts in the past, to maintain its vigilance and to monitor continuously the impact of its relations with neighbouring countries on the evolution of ethnic relations domestically. Moreover, it encourages the State party to strengthen its efforts in all fields in order to promote a culture of inter-ethnic dialogue and understanding.

Surveys on inter-ethnic relations and racial discrimination

9. While again commending the State party for conducting opinion polls on inter-ethnic relations and experience of racial discrimination, the Committee draws the attention of the State party to contradictions in the findings of opinion polls which may suggest a

need to review survey methods. Moreover, the Committee expresses concern at the interpretation of the survey findings that no one has experienced racial discrimination in the State party, in spite of the fact that respondents to some surveys reported the incidence of ethnic animosity, hostility and discrimination (arts. 1 and 2).

The Committee finds it difficult to accept assertions that in a given society there is no racial discrimination and that there are no reasons for it. Therefore, the Committee cautions the State party against complacent attitudes regarding racial discrimination and ethnic relations among its population, and recommends that opinion polls be designed and conducted with a view to identifying also undetected manifestations of racial discrimination and that their findings be acted upon for preventive purposes.

Rights of ethnic minorities

10. The Committee is concerned at the absence of framework legislation for the protection of the rights of ethnic minorities in the State party. The Committee is also concerned about the insufficient support given to the promotion of minority languages, including the Tajik language, and at the decrease in the number of schools providing education in minority languages. The Committee further notes with concern reports that education in minority languages at all levels, including preschool education, is not adequately supported by the State party's authorities (art. 5).

The Committee calls upon the State party to adopt framework legislation which defines the rights of persons belonging to ethnic minority groups and establishes mechanisms of dialogue, and to take measures to promote the use of their languages by those ethnic minority groups. The Committee also requests the State party to provide information in its next periodic report on:

(a) Measures taken to promote and support education in minority languages;

(b) The extent to which measures taken under the 2006 Cabinet Decision on the improvement of the system of retraining and advanced training of teachers benefit education in minority languages;

(c) The framework for guaranteeing access to education for the children of migrants, internally displaced persons and refugees.

Luli/Roma

11. While welcoming the information that members of the Luli/Roma community in the State party are able to preserve their traditional lifestyle, the Committee is concerned that other findings of the survey undertaken by the State party on their socioeconomic status depict a marginalized and discriminatory situation: they fare below the national average in educational achievement, they are concentrated in low-paying employment and a large majority of them are recipients of public welfare benefits. It is also concerned that their situation has not been perceived as a form of racial discrimination. The Committee is further concerned at reports of stigmatization and negative attitudes on the part of the public as well as in the portrayal of Luli/Roma in the media (arts. 2 and 5).

The Committee calls on the State party to adopt a strategy and plan of action for addressing the situation of the members of the Luli/Roma community in the areas of education and employment, and in other relevant fields, taking into account the measures enumerated in the Committee's general recommendation No. 27 (2000) on discrimination against Roma. The Committee requests that the State party include in its next periodic report information both on their access to basic services and on their actual enjoyment of economic, social and cultural rights. Furthermore, the Committee

calls on the State party to take appropriate steps to combat prejudice and negative stereotypes regarding Luli/Roma.

12. The Committee is alarmed at reports of the forced sterilization of Roma women and women defenders of human rights in the State party (art. 5).

The Committee urges the State party to investigate all allegations of forced sterilization of women, provide effective remedies to victims and prevent the future occurrence of sterilization without full and informed consent.

Meskhetian Turks

13. The Committee regrets the lack of information on the situation of Meskhetian Turks who remain in the State party. The Committee is also concerned at reports of difficulties experienced by this group (art. 5).

The Committee calls on the State party to conduct research with a view to assessing the real situation of Meskhetian Turks on its territory and to provide such information, as well as information on any measures taken by the State in relation thereto, in its next periodic report.

Political rights

14. While acknowledging the data and information on the enjoyment of political rights provided in the State party's report, the Committee regrets that data in respect to the various ethnic groups are not presented in a systematic manner. The Committee also notes that, in several instances, the data point to underrepresentation of members of ethnic minority groups, including larger groups such as Karakalpaks, Tatars, Kyrgyz, Kazakhs, Tajiks and Russians, in the judiciary and the public administration (art. 5).

The Committee encourages the State party to take measures aimed at increasing the political participation of persons belonging to ethnic minorities and requests that information on the representation of all sizeable ethnic groups in elected and appointed positions of the State party's institutions and administration be included in its next periodic report.

The Committee also recommends that the State party create a mechanism for systematic consultation with representatives of minority groups on all issues concerning them.

Prison population

15. The Committee regrets that statistical data on the ethnicity of pretrial detainees and prisoners in correctional facilities were not provided in the State party's report (art. 5).

Reiterating the importance of statistical data on the ethnicity of persons held in prison or preventive detention for assessing the existence or extent of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that data on the ethnicity of persons in preventive detention be collected at the same time as other demographic information. The Committee requests that the State party present such data, along with statistical data on detainees held in correctional facilities, disaggregated by ethnic group, in its next periodic report. The Committee refers the State party to the factual indicators enumerated in section I of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

Economic, social and cultural rights

16. The Committee notes the information provided by the State party on the ethnic and gender composition of the population of the State party and some data on education broken down by language and ethnic group, but regrets once again the absence of comprehensive data on the actual enjoyment of economic, social and cultural rights by persons belonging to ethnic groups in the State party (art. 5).

The Committee recommends that the State party establish a mechanism for collecting socioeconomic data on the enjoyment by members of the State party's ethnic groups, including women, of economic, social and cultural rights, such as education, employment, social security, health and housing. In this regard, the Committee refers the State party to the revised treaty-specific reporting guidelines (CERD/C/2007/1, paras. 11 and 19) and requests that the relevant data, disaggregated by sex, ethnic group and language spoken, be provided in the next periodic report.

Aral Sea ecological disaster and the Karakalpak ethnic group

17. The Committee is concerned at the impact of the Aral Sea ecological disaster on the enjoyment of their human rights by members of ethnic groups living in the area. The Committee is concerned at the inability of some members of the Karakalpak ethnic group to maintain their culture, their livelihoods and their traditional lifestyle. Moreover, the Committee expresses concern about the decreasing use of the Karakalpak language in the Republic of Karakalpakstan (art. 5).

The Committee requests that the State party provide in its next periodic report information on measures taken to alleviate the impact of the Aral Sea ecological disaster on members of ethnic groups living in the Republic of Karakalpakstan as well as to ensure that they enjoy the same level of economic, social and cultural rights as the rest of the population. Moreover, the Committee calls upon the State party to take measures:

(a) To support members of the Karakalpak ethnic group to preserve their livelihoods and traditional lifestyle;

(b) To respect and promote the use the Karakalpak language as an official language.

Compulsory residence registration system (*propiska*)

18. The Committee remains concerned at the disproportionate impact of the compulsory residence registration system (*propiska*) in the State party on the economic and social rights and opportunities of disadvantaged members of ethnic groups residing outside the capital city. The Committee regrets that the State party did not provide disaggregated data on residence registration applications and decisions in its report (art. 5).

The Committee once again requests that the State party include in its next periodic report statistical data on residence registration applications and decisions, disaggregated by region and ethnic origin of applicants. The Committee also requests the State party to supply information on the impact of the 2011 Law on "the list of categories of persons-citizens of the Republic of Uzbekistan to be permanently registered in Tashkent city and the Tashkent region" on the enjoyment of rights and freedoms by disadvantaged members of ethnic groups residing outside the capital city.

Trafficking in persons

19. The Committee is concerned about reports of continuous trafficking of women and children, both nationals and foreigners (art. 5).

The Committee recommends that the State party:

(a) Redouble its efforts to prevent, control and sanction all cases of trafficking of women and children;

(b) Ensure the adequate protection of all victims of such trafficking;

(c) Provide in the next periodic report data about perpetrators and victims, including their ethnic origin, the sanctions applied and the support given to victims.

Stateless persons

20. The Committee is concerned about the situation of stateless persons and regrets that the State party has not taken concrete measures to facilitate their acquisition of Uzbek citizenship (art. 5).

The Committee recommends that the State party:

(a) Urgently take measures to address statelessness, including by improving the transparency of and expediting the naturalization procedure;

(b) Include in its next periodic report statistics on the acquisition of Uzbek citizenship;

(c) Supply information on the impact of the 2012 Cabinet Decision on the "procedures for permanent and temporary registration of foreign nationals and stateless persons in the city of Tashkent" and of the 2011 Cabinet Decision on "a stateless person's travel documents" on the rights of stateless persons and the reduction of statelessness;

(d) Inform the Committee of any envisaged amendments to the legislation or the procedure for granting citizenship to stateless persons.

Moreover, the Committee reiterates its invitation to the State party to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Refugees

21. The Committee remains concerned at the absence of a legislative framework for the protection of refugees in accordance with international standards (art. 5).

The Committee calls upon the State party to ensure that the draft law on refugees conforms to international standards and to expedite its adoption as well as the development of a refugee status determination procedure. The Committee also reiterates its invitation to the State party to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol.

Awareness of rights and access to remedies

22. The conflicting findings of surveys conducted by the State party which, on the one hand, recorded no experience of discrimination in the enjoyment of civil rights and freedoms on the grounds of race or ethnicity and, on the other hand, reported instances of ethnic animosity and hostility in everyday life, reveal insufficient awareness among the population of the provisions of the Convention and of their rights resulting from the prohibition of racial discrimination. Moreover, in view of the information on complaints

received by the Ombudsman and the lack of court cases, the Committee is also concerned that victims of racial discrimination may not have access to effective remedies (arts. 1, 6 and 7).

The Committee calls on the State party:

(a) To continue raising awareness of the Convention, of what constitutes racial discrimination and of relevant legal provisions, through appropriate media and other means that are available and accessible to all;

(b) To review remedies available to victims of racial discrimination seeking redress and ensure that they are effective. In this regard, the Committee refers the State party to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system (sect. II, on steps to be taken to prevent racial discrimination with regard to victims of racism). The Committee also recommends that the State party expand the mandate of the Ombudsman to the receipt of complaints relating to racial discrimination, and consider establishing other non-judicial redress mechanisms which are more accessible;

(c) To provide in the next periodic report information on complaints about acts and cases of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings as well as by non-judicial mechanisms, including on any compensation or satisfaction provided to victims of such acts.

National human rights institution

23. While noting with interest the activities undertaken by the Ombudsman and the National Centre for Human Rights, the Committee reiterates its concern at the lack of a national human rights institution fully compliant with the principles relating to the status of national institutions (the Paris Principles) (General Assembly resolution 48/134, annex) and at reports that the Ombudsman has failed to accept or respond to some complaints.

The Committee reiterates the importance of establishing an independent and appropriately resourced national human rights institution compliant with the Paris Principles and recommends that the State party continue to consider all possible options for developing such an institution, including by strengthening the institution of the Ombudsman so as to conform with the Paris Principles, and take steps towards its accreditation by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

IV. Other recommendations

Amendment to article 8

24. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee cites General Assembly resolutions 61/148, 63/243, 65/200 and 67/156, in which the Assembly strongly urged States parties to accelerate their national ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

Declaration under article 14

25. The Committee encourages the State party to make the optional declaration provided for under article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

Ratification of other treaties

26. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Follow-up to the Durban Declaration and Programme of Action

27. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests the State party to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

Consultation with organizations of civil society

28. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular on combating racial discrimination, in connection with the preparation of the next periodic report and the follow-up to the present concluding observations.

Dissemination

29. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to the reports be similarly publicized in the official and other commonly used languages, as appropriate.

Follow-up to concluding observations

30. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 12, 14 and 20 (a), (c) and (d) above.

Paragraphs of particular importance

31. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6, 10 and 16 above, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

Preparation of the next periodic report

32. The Committee recommends that the State party submit its tenth to twelfth periodic reports, in a single document, by 28 October 2018, taking into account the guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1), and that it address all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60 to 80 pages for the common core document (see HRI/GEN/2/Rev.6, chap. I, para. 19).